

RECEIVED

DEC 10 1998

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC MAIL ROOM

In the Matter of)

Satellite Delivery of Network Signals)
to Unserved Households for)
Purposes of the Satellite Home)
Viewer Act)

Part 73 Definition and Measurement)
of Signals of Grade B Intensity)

CS Docket No. 98-201
RM No. 9335
RM No. 9345

Comments

December 7, 1998

J. E. Schmidt,
An American Citizen, Consumer
and Registered Voter
P. O. Box 134
Billings, MT 59103

email: mgu@wtp.net

No. of Copies rec'd 746
List ABCDE

"Where We Are Today"

At the present time we are caught in a dilemma which has come about both as the result of bad law and of antiquated regulations of the Federal Communication Commission (FCC) which have not yet been brought up to date to fully recognize and adapt to the state of the art as exhibited by satellite transmission technology. This technology makes possible very high quality reception in American homes and households of the major network programs and hundreds of other services as well.

The "bad law" element happened by the error of using the "Signals of Grade B intensity" as a standard for defining what American households should be entitled to receive. Congress meant well at the time, and perhaps Grade B in Part 73 of the FCC regs was all it had to work with then, but this has all led to litigation which may result in 2.2 million or more households being "disconnected" a very bad result... unless the law and the regulations are updated and repaired by February 28, 1999, which seems at the moment to be a sort of deadline.

The NRTC and Echostar have petitioned the FCC, and Congress has asked the FCC to write updated regulations to give it guidance in making necessary changes to the Satellite Home Viewers Act (SHVA). Both changes in the regulations and in the law will be necessary to prevent the disconnection of the 2.2+ million households.

My sense is that Congress is willing to fix the law as needed if the FCC will lead the way first in rewriting the regulations. I argue that the FCC needs to take an aggressive approach to this, beginning by redesignating the present "Grade A and Grade B" to B and C respectively, and then write a new Class A definition of signal quality which will reflect the present state of the art in technology. Suggested language for this purpose is incorporated later in these Comments.

With this in place, it would be my hope that Congress will then assist and rewrite the SHVA to ensure in law that American households are entitled to receive Class A reception quality instead of something out of the "Dark Ages," which is what the "Grade B contour" is.

I have been reviewing a lot of material about this on the Internet, and am particularly upset to learn that it has somehow been determined that a "Grade-B" signal is to be deemed good enough for Americans. This, despite the fact that it seems to be well known that the "Grade B contour" is a very old technical "standard" that was **never intended** to be used to qualify satellite network reception.

Worst of all, hundreds of thousands of rural and fringe-area satellite users are about to lose their only source of network signals unless there is Congressional action to head off the manipulative process that has been going on in a Florida courtroom.

Actually a major change and a shifting of technologies is in evolutionary progress at the present time.

To trace the history all the way back to the beginning, about circa 1927 (the Radio Act of 1927) and thereafter, radio networks were formed which originated programming of national interest in the major "hub cities," mainly New York, Chicago and Los Angeles. In order to reach the entire country, this programming was sent by telephone line hookups to "affiliate stations" in the various States of the Union. The affiliates then retransmitted the program material.

About 1947 or so, television came along and the same process continued for many years until the satellite birds were placed in the sky, and then it became possible not only for affiliate stations to receive the programs but also individuals -- in fact, anybody who owned a satellite dish and receiver.

The existence of this technology and process proves that as the years continue to roll by, it is only a matter of time until the network affiliate stations become obsolete and no longer necessary for the delivery of network television programming to viewers. These stations are not 100% necessary any more.

For the most part, these "local affiliate stations" add nothing of value to the program material. They do contaminate it with barrages of annoying local commercials and degrade the signal quality as will be explained in a moment using the illustration of the "Garbage Station." To some degree, the same problem occurs with cable television, but viewers with satellite dishes can evade the irritating local commercials by switching to direct off-satellite reception of program services such as CNN and others.

This evolutionary process will not be complete until millions of Americans -- most of us, in fact -- are all able to receive television programs off-satellite; but considering at the present time it is possible to purchase a DBS satellite reception system for as little as only \$69.97, see attached exhibit at the end, we can reasonably project that the majority of homes will have small-dish satellite receivers within the next ten years, and many of them much sooner than that. Some homes will have several small dishes and receivers for various functions.

Hence, this entire business of the NAB court action is in reality an attempt to forcibly prolong the existence of what is actually a doomed, dying and technically obsolete collection of affiliated network television stations. I predict that in coming years we will see these stations go dead, one by one, no matter what is done by Congress or the FCC to try and artificially prolong their existence.

We would have a comparable situation if the cable companies were to suddenly demand that the two CSPAN channels must be blacked-out from individual satellite viewers and were to hereafter be seen only by people subscribing to a cable television service. And for rural Americans without any cable service at all? "Sorry, folks, too bad, from now on all you get is cowpies in the face."

In its "Notice of Proposed Rule Making," the FCC has outlined a number of tests, but everyone has overlooked a very simple test that has already been made and applied by millions of households, and it is...

The Evidentiary Living Room "Pay?" or "Free?" Test

This test already exists and has been performed a million or more times in the living rooms of millions of American citizens who own satellite receiving equipment. Reception of network signals by satellite is NOT free of charge, as it is off-air. These millions of people have already examined the "signal intensity" and quality of the available off-air network signal in their living rooms and found it to be inadequate or nonexistent... and have therefore exercised some freedom of choice to PAY a small fee for the network programming via satellite delivery.

What's wrong with this? Nobody FORCED these millions of people to decide to pay for the signal... they did it of their own free will, and this has to stand as rather strong evidence that all of them were "unserved households."

It seems obvious that the National Association of Broadcasters (NAB) wants to force these millions of citizens to purchase expensive 30-foot high outdoor antenna towers and antenna systems in order to enable off-air reception of their local affiliate stations.

Apart from the fact that these outdoor reception systems are ugly, when we consider that the cost of a complete DBS small-dish satellite reception system is as low as only \$69.97 these days [Future Shop, Billings MT, see exhibit] and 30' high antenna towers

will cost hundreds of dollars more, I argue it will amount to totalitarianism and a rule of dictatorship if we impose what the NAB wants upon Americans. This will be patently unfair and an unreasonable burden to be forcibly imposed upon consumers. At minimum, it is hardly what one should expect in an enlightened and truly free society.

Network Affiliate Stations Described

The "network affiliate television stations" represented by the NAB receive very generous "corporate welfare" from the people of America, paying nothing for their licenses to use and tie up huge amounts of the frequency spectrum for television channels. Given the "state of the art" of the technology of today, not at the time of the Radio Act of 1927, nor the debut of television in the late 1940's, it can more than ever be argued that the frequency spectrum consumed by the network affiliate broadcasters is a "vast wasteland" and a dreadful abuse of available frequency spectrum which could otherwise be used for better and more deserving purposes and other communication services.

The facts are: These stations are corporate entities engaged in the business of broadcasting "commercials," i.e. paid advertising. In this respect they are quite similar to the operators of billboards placed along the highways and byways of America. This advertising is their 100% top priority. Program material and "public service announcements" are simply "filler" occupying "wasted space" in between commercials. The commercials are of highest priority. "Filler" will be chopped mercilessly whenever necessary to make room for more commercials, or to ensure that scheduled commercials get broadcast.

The viewers [audience] of the television program or movie may feel a little differently about this, but nobody ever asks them. However, this "comment" period is the proper venue for some of us to let government know how we feel.

At least the billboard operators lease their space, usually. They don't get it for free, like the network affiliate stations do.

Ask practically anybody who has worked as a technical employee in a commercial television station, and you will be informed that the commercials must run no matter what. The "program filler material" is inconsequential. Nobody cares if this doesn't get on the air 100% perfect, but the commercials? Mess up on one of these too many times and you'll get fired.

Witness, for example, what has often happened to movies over the years. Parts of the movie will often be chopped out to make space

for more commercials. If a movie that runs 110 minutes needs to go into a two hour time slot, something has to give and it will never be the commercials.

It really starts to get interesting when a movie of 140 minutes duration has to go into a 1-1/2 hour time slot with commercials.

Many made-for-TV programs that originally ran 25 minutes complete are routinely chopped down to make room for 8-10 minutes of commercials within a half-hour time slot at the present time.

These little facts are mentioned here to further illustrate the motivations of the corporate monied special interests represented by the NAB who operate the network affiliate stations. They care only about forcing their commercials down everyone's throat, the public be damned, and, as to the viewers in marginal fringe areas and rural areas who are presently enjoying pristine signals via satellite? "Let them be damned too." The monied corporate interest is God, and we must all bow down and pay homage to same, it seems.

A Local "Garbage Station"

Included in the group of network affiliates represented by the National Association of Broadcasters (NAB) is a "garbage station," specifically KSVI, which has been masquerading as an ABC affiliate for the Billings, Montana viewing area, but is actually operating out of Hardin, Montana many miles away; which I am going to use in these comments as a prime example of what is going wrong, and please, may I emphasize that the term "garbage station" represents a personal opinion, which, however, I shall seek to justify.

The ABC television network works very hard at preparing program material of a very high visual technical quality with stereophonic sound. These programs are uplinked to satellites in the sky and are then received by affiliate stations such as KSVI of Hardin.

Unfortunately, KSVI reprocesses this high quality material into garbage, recording the programs for later rebroadcast with second-rate equipment, so that originally-pristine video emerges as a fuzzy sandpaper-like grainy image, and the original stereo audio is transmogrified into poor-quality mono sound complete with locally-induced wow and flutter. This disaster is then sent out on their junky transmitters to the people of Billings. It's due to this complicated technical process of signal degradation that I refer to KSVI as a garbage station, since it converts what was originally excellent quality into rubbish.

Fortunately, people with satellite dishes, both large [C-band,] and small [DBS,] have been able to receive ABC and other networks in very high quality video with stereophonic sound as sent out in the original transmission by the network, and thus have not had to put up with inferior local garbage stations, but this pleasant condition seems about to end.

The Issue of "Localism"

The concept of "localism," as it applies to broadcasting, is no longer as important today as it used to be. Why not? Because advances in technology have brought us alternatives, particularly the Internet.

Just in the past year we have seen nationwide, as well as in Montana, many new websites come on line associated with local and state governmental bodies. And in Billings, Montana we have had for several years "Community-7" TV on the cable, which carries live and complete such things as City Council meetings and other events, besides a variety of programs prepared by various organizations and individuals.

Only two of the local television stations in Billings, MT actually have news departments with daily scheduled local news broadcasts. These are KTVQ [Ch.2] and KULR [Ch. 8] ... the other stations carry no local news of any significance.

Besides, the issues of signal strength and quality are not quite so important with just local news only. Most of us, I would cautiously say, can, if necessary, cheerfully tolerate a poorer quality picture in order to acquire the information and content of our local news; but this tolerance ends when it comes to other programming and movies. In my case, the local news on KTVQ is the only program I watch there on a regular basis.

People who acquire satellite receivers seek to obtain BOTH higher quality of picture and sound, PLUS the programming variety that inures from 200+ other channels to choose from. The four major television networks are only 4 out of 200+ available channels; so if we are going to be cut off from these we still have access to the many remaining channels. There is ultimately NO WAY that the NAB and its network affiliate broadcasters are going to cut us off from this unless they find a way to shoot the birds down out of the sky, and I, for one, wish they would give up on this "Grade B contour" nonsense and leave us all alone.

Network affiliate broadcasters need to begin to move with the state of the art of today's technology and "get with the program," improving themselves accordingly.

If unwilling or unable to do this, then they should get out of the television business, or at least get out of the way.

Signal "Quality" vs Signal "Intensity"

The Need for New Definitions, and a rewriting of the FCC Regs and the SHVA

It has been proposed to the FCC that the Commission should "... [re]define an over-the-air signal of Grade-B intensity..." but I wish to respectfully submit that this is a further mistake on top of the mistakes already made and will set a very bad precedent. It already implies by inference that American consumers are supposed to be getting something sub-standard; and many comments have already been made to the effect that Grade B is not appropriate for this usage to qualify satellite network reception.

There weren't even any satellites in the sky at all when Grade B was written. It's literally prehistoric, something from the time of the Dinosaurs.

From a consumer point of view, which will represent the majority of American citizens by a vast margin rather than the monied special interest of the network affiliate stations, I wish to propose instead something resembling the following language, which will be much more reflective of the current state of the art in broadcasting, with many more improvements yet to come in the near future.

Many of us who live in rural America are more than a little upset over this recent discovery that we are regarded as "Grade B citizens."

Why can't we be Class-A ??? We pay lots of taxes. And we don't get any corporate welfare at all.

The "Grade B contour" and its associated models were developed beginning in the 1950's. At that time there were no satellites in the sky, no hundreds of alternative channels to watch, no color television, no videocassette recorders, no multi-channel land-based coaxial cable systems, no personal computers with interactive video capability, no digital video disks and none of many other things that exist today as we stand at the dawn of a New Millennium.

Both the SHVA law and the regulations need to be revised in a way that will make signal quality as received in the American home the principal goal and controlling objective.

The present situation of law and regulations where arbitrary and antiquated "signal intensity measurements" by various "contours" and "models" seem to be the controlling factor must be changed. These do not provide a reliable way of guaranteeing a 100% level of Signal Quality as well as Signal Intensity, when the end result appears on the TV screens in the living rooms of Americans. Signal Quality is important and matters very much.

It should be noted that the following is actually quite simple in terms of testing requirements and easy to understand:

A Proposed New Definition of "Signal Quality"

1) The "Grade A" signal intensity category as presently defined in Part 73 of the FCC regulations must be changed to "Class B," and what is presently "Grade B" to "Class C."

2) The New Class-A Definition:

"Pre-transmitter feeds of television program material consisting of a very high quality video component, either from studio-live cameras or other sources such as 35mm motion-picture film or Betacam video tape which is equal to or better than 35mm motion picture film together with stereophonic sound; which originate from a network master control studio such as CBS, NBC, ABC, FOX, etc. or from the master control studio of a programming vendor such as CNN, CSPAN, HBO, Showtime, Starz, Encore, etc.; and then uplinked to satellite shall be designated as "original signals" and therefore a **Class A-1 signal** for reference purposes."

3) This same original signal, when received under normal conditions from a C-band satellite by equipment in proper working order by a network affiliate station, cable television company or individual private citizen shall be designated as a **Class A-2 signal**.

4) This same original signal, when received under normal conditions with a DBS small-dish satellite reception system in proper working order by anyone shall be designated a **Class A-3 signal**.

5) This same original signal when so received by a satellite receiver system and then retransmitted by either a local television station or a cable company shall **not** be designated as continuing to be within the Class A category at a specific location such as a household: **unless** it includes stereophonic sound in the retransmission (if such was included in the original signal transmission as was received from the programming source) **and** is of direct comparable visual quality when viewed on a 20" or larger television set produced within the last 2 years by a major manufacturer of television sets while simultaneously viewing the original Class-A signal for comparison purposes on a similar television set connected to a small-dish (DBS) satellite receiver, or by using an A/B switch in lieu of a second television set so that comparison of the two signals may be quickly made.

6) If the retransmitted original Class-A signal from the local television station or cable company is arriving at the household in a condition of visually noticeable lesser quality when compared with a Class A satellite-derived original signal on the two television sets or with an A/B switch as previously described, and/or does not include stereophonic sound, this signal shall then be designated as **Class C**.

7) A badly degraded signal, or a condition of no transmitted picture viewable at all when such transmission originates from a local television station, shall be described as **Class-F (failure.)**

Entitlement of American citizens to Class A reception

1. Both the FCC and Congress together need to recognize the full capabilities of current technology and state in law & regulations that all Americans are entitled to have access to high-quality Class A television signals as described above, **if possible**. It is inappropriate and wrong for any network affiliate station, such as, for example, an ABC affiliate of the ilk of KSVI, to have legal power to prevent anyone from receiving the ABC original signal directly by satellite unless the affiliate station is able to demonstrate, in a test conducted in the home of the person at the affiliate station's expense, that it is possible to actually receive a Class A signal [as defined in these Comments] there at that location from the station.

2. If off-air reception of a Class-A signal as defined above is impossible and the only way to receive a Class A signal from the network affiliate station at the location in question is by cable television; then the individual at that location shall have the option of receiving the ABC signal directly off-satellite, or via satellite from a distant affiliate, or by subscribing to the cable television service, whichever is preferred, at the option of the individual.

The requirement in the current SHVA to not to have been connected to a cable system for 90 days in order to obtain satellite access must be eliminated.

This is the ONLY WAY that we can preserve free access and foster competition between various technologies and vendors. Otherwise you are forcing American households into the greedy and grasping arms of the cable monopolists who may soon by end of March, 1999 be free again to charge whatever the market will bear.

3. Specification of a Simple Test.

In the event that a network affiliate station (such as ABC, or other) challenges the desire of a person to receive ABC off-satellite directly, the affiliate must be required, at its expense, to prove that:

a) it actually transmits at the outset a Class A signal, including stereophonic sound, as defined above. (If it does not even transmit a high quality visual and aural signal to begin with, or there is no stereo, then the matter ends immediately, and anyone who wishes can go satellite.) If this Class A requirement is met, then.....

b) Proof must be provided that this signal can actually be received at the person's location, and still in a Class A condition, using common TV equipment generally available at reasonable prices.

The following test is easy to do and requires no complicated engineering measurements: Simply set up two similar television sets side-by-side. Connect one to the output of a satellite receiver system tuned in to the original network signal; then tune in the other set to the network affiliate's off-air signal. (Or, use an A/B switch device to switch a single TV set between the two signal aources.) It will be immediately apparent whether or not the off-air signal is adequate, and witnesses can then certify and sign off as to the results.

It can generally be assumed that "challenges" from a network affiliate station that desires to force a person who prefers to watch network television off satellite from a high-quality signal to receive the network from the affiliate station or not at all will be the most common situation here.

Further, it is probable that the off-air signal from a local network affiliate station will in most cases not be good enough to survive this simple signal quality comparison test, unless the person is actually within a metropolitan area where a strong signal of good quality truly exists and is receivable.

And that is the whole point of this proposed test -- to ensure that we in America are first class citizens, and not required to accept having a "Grade-B" signal forcibly shoved down our throats by the NAB and its network affiliate broadcasters.

4. Elimination of all "waiver requirements"

Inasmuch as a network television affiliate station is in reality a monied special interest, it should not be given the authority to act as judge, jury and executioner in deciding whether or not a consumer shall have access to network television signals off-satellite; as this is a case of "the fox guarding the henhouse."

What would be better and more practical is for satellite access to be granted automatically to any consumer who requests same, and then the network affiliate in the vicinity could be advised of the subscriber's name and address, if it has requested to be notified, and has agreed to pay the costs associated with such notification. Within a time limit of 30 days, the affiliate would be allowed to "challenge," but as a part of doing so would be required to pay for a reception test at the subscriber's location. The test would be as has been outlined above.

Rights of the owner of the "original signal"

It would, of course, be within the rights of the owner and creator of the original signal, such as a television network, to establish a policy that its signal was not to be received by anyone except by way of an affiliate station. The rights of the signal owner to control viewing are enforced by encrypting the satellite signal in order that only authorized entities may receive it. And this occurs on many satellite channels, not just the networks.

However I do not believe that this is an issue in this matter of the "Prime Time" or "Direct TV" satellite services where the signals of a number of "superstations" located in major markets are made available to satellite viewers.

Precedent has already been set in effect in this for a number of years and the networks have not objected... probably because they need to be able to offer their advertisers the greatest number of potential viewers of the network's programming.

And therefore I don't think it's likely that any of the major networks will move to prohibit the viewing of their signal by individuals, especially not after they have had some time to think about it.

In conclusion....

Both Congress and the FCC need to carefully examine whether or not the cutting off of millions of rural Americans from the satellite signal of the major networks is necessarily in the public interest.

Do not be too hopeful that digital television (DTV) will come along and solve this problem. With DTV the picture is either received perfectly or not at all... but nothing is still nothing.

It is also fact that the "audience share" of these old networks has been dropping steadily for years, and as these trends continue these networks will be of lessening significance considering the many other channels that viewers can select from.

Speaking only for myself, when there is a major event that is carried live by CSPAN, I always prefer to watch it there, and escape the spin doctors and commercials of the other channels. If not available @CSPAN, then my choice is usually CNN.

Thank you for reading, and I hope that these Comments will be of some help in the efforts to repair a complicated mess of law and regulations... and hopefully, ensuring that 2.2+ satellite viewers of network signals will not be forcibly disconnected.

As our Montana senators have pointed out to me, not only are there over 30,000 satellite users in Montana, but we have the highest number of satellite viewers per capita of any state in the Union.

I hope that we are not going to be disconnected and sent back to the dark ages of flickering, fuzzy, poor quality television images.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. E. Schmidt", written over a horizontal line.

J. E. Schmidt

EXHIBIT: Receipt for satellite receiver purchased at the Future Shop store 11/27/98 for \$69.97.

RE SHOP FUTURE SHOP

"Someday Everyone Will Save Like This"

=====

FUTURE SHOP RTIITNGS 04:06 PM 27 NOV 98
 Invoice: 094229
 Billings, MT Type : SA
 (406) 452-9630 Sales# : 1876
 Salesperson: TONY FREESTONE

=====

A521537 REGISTFR: 35
 SCHMTNT, J. F.
 PO BOX 134
 RTIITNGS MT 59103

=====

QTY	DESCRIPTION	AMOUNT
1	HUG R-2332	99.98
	058/98978222-1876 R	99.98
1	GSS RY ACTTU'N	0.00
	00007961-1876 R	0.00
	HONF 4064521537	
	AccessCard000152420204	
1	RCA 00	0.01
	538/03841131-1876 R	0.01
1	RCA 00	0.01
	538/03841131-1876 R	0.01
1	HUG CC-K1 DSSKT	0.01
	005/98941001-1876 R	0.01
1	HUG R-22/23	69.97
	055/98978022-1876 R	69.97
1	SNL NIAL DSS	0.00
	00007962-1876 R	0.00
	HONF 4064521537	
	AccessCard000145918090	

Now You Can Shop Online For Software At
 Our Webstore: www.futureshop.com

Gift exchanges and refunds are available
 until Jan 10/99. Original invoice
 required.

Thank you Item Total 169.98
 for shopping at
 FUTURE SHOP State Tax 0.00
 INVOICE 169.98

TRANSACTION RECORD PURCHASE
 CASH 170.00 CHANGE= 0.02

SIGNATURE: X 